



Nos. 62 and 63 in *United States v. Johnson*, 7:20-cr-9-HL-TQL (M.D. Ga. Apr. 11, 2022). He had numerous motions pending in his criminal case, including a motion to withdraw his guilty plea. *Id.* at ECF No. 68. Thus, Petitioner’s criminal case was ongoing, and the Court dismissed his § 2241 action as premature. ECF No. 3.

Petitioner argues that the Court should not have dismissed his action because he had filed “a Motion to Arrest Judgment and Motion to Amend Motion to Arrest Judgment” in his underlying criminal case. ECF No. 5 at 1. He states the motions “address[] the exact issue brought forth in [his] 28 U.S.C. § 2241 petition,” and the “Court has failed to acknowledge [his] motions.” *Id.* This is an argument that Petitioner might have made in a mandamus action, not in a § 2241 petition.<sup>1</sup> See generally *United States v. Shalhoub*, 855 F.3d 1255, 1263 (11th Cir. 2017); *In re Paradyne Corp.*, 803 F.2d 604, 612 (11th Cir. 1986).

Next, Petitioner argues that the Court has violated his “due process right to file a . . . 28 U.S.C. § 2241 petition before being sentenced [by] treating the . . . § 2241 petition as a 28 U.S.C. § 2255 petition.” ECF No. 5 at 2. Petitioner is incorrect. The Court treated his petition as one brought under § 2241, not § 2255, and dismissed it as premature. ECF No. 3.

Petitioner has now been sentenced and he has filed a notice of appeal in his criminal action. ECF Nos. 92, 94, and 96 in *United States v. Johnson*, 7:20-cr-9-HL-TQL (M.D.

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<sup>1</sup> The Court notes that it did not fail to acknowledge these motions; it denied them both. See ECF No. 96 in *United States v. Johnson*, 7:20-cr-9-HL-TQL (M.D. Ga. July 21, 2022).

Ga. July 21-25, 2022). He can raise on appeal in his criminal case the issues raised in his § 2241 petition should he want to do so. *See Garcon v. Palm Beach Cnty. Sheriff's Off.*, 291 F. App'x 225, 226 (11th Cir. 2008) (per curiam) (upholding dismissal of premature § 2241 petition filed by federal pretrial detainee who was subsequently convicted).

In conclusion, to the extent Petitioner's "Objection" is construed as a motion brought under Federal Rule of Civil Procedure 59(e) to alter or amend the Court's July 5, 2022 Order, it is **DENIED**.

**SO ORDERED**, this 11th day of August, 2022.

*s/ Hugh Lawson*

HUGH LAWSON

UNITED STATES DISTRICT COURT